

# Notice of Allowability

Application No.

09/980,242

Examiner

Rebecca L Anderson

Applicant(s)

BISCHOFF ET AL.

Art Unit

1626

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 27 September 2004.
2. ☒ The allowed claim(s) is/are 1-5, 8, 16, , 21-24 and 30-39, now renumbered as claims 1-21.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |                                                                                                                     |                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)                                                    | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                              |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>102504</u> |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                                      |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                |
|                                                                                                                     | 9. <input type="checkbox"/> Other _____                                                                  |

### DETAILED ACTION

Claims 1-5, 8, 16, 21-24 and 30-39 are currently pending in the instant application, appear allowable over the prior art of record and have been renumbered as claims 1-21.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Gray on 25 October 2004,

The application has been amended as follows:

1. Amend claim 1 by deleting the term "general" from the first line of the claim.
2. Amend claim 8 by deleting the term "general" from the first line of the claim.
3. Amend claim 16 by deleting the term "general" from the first line of the claim.
4. Amend claim 22 by deleting the phrase "characterized by" on first line of the claim and inserting in its place the term --with--.
5. Amend claim 23 by deleting the phrase "characterized by" on first line of the claim and inserting in its place the term --with--.
6. Amend claim 24 by deleting the phrase "characterized by" on first line of the claim and inserting in its place the term --with--.
7. Amend claim 36 by deleting the term "general" from the second line of the claim.

8. Amend claim 37 by deleting the term "general" from the second line of the claim.
9. Amend claim 38 by deleting the term "general" from the second line of the claim.
10. Amend claim 39 by deleting the term "general" from the second line of the claim.

***Examiner's Comment / Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It was not executed in accordance with either 37 CFR 1.66 or 1.68.

Specifically, the date of execution for Stephan Lensky and Holger Paulsen is absent. Appropriate correction is required.

***Response to Amendment***

Applicants' amendment to the claims by canceling claims 42, 44, 45, 47, 48, 50, 51, 53, 54 and 56 has overcome the 35 USC 112 1<sup>st</sup> paragraph rejection of the previous office action.

***Terminal Disclaimer***

The terminal disclaimer filed on 17 December 2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 09/980243 has been reviewed and is accepted. The terminal disclaimer has been recorded.

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### Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rebecca L. Anderson whose telephone number is (571) 272-0696. Mrs. Anderson can normally be reached Monday through Friday 5:30AM to 2:00PM.

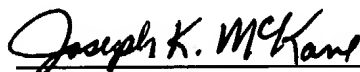
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Joseph McKane, can be reached at (571) 272-0699.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rebecca Anderson  
Patent Examiner  
Art Unit 1626, Group 1620  
Technology Center 1600



Joseph K. McKane  
Supervisory Patent Examiner  
Art Unit 1626, Group 1620  
Technology Center 1600